

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SFA SYSTEMS, LLC, Plaintiff	§ § § § § § §	Case No. 6:09-cv-00340
vs.		
1-800-FLOWERS.COM, INC., et al., Defendants		Jury Demanded

**GANDER MOUNTAIN COMPANY’S ANSWER, ADDITIONAL DEFENSES AND
COUNTERCLAIMS TO SFA SYSTEMS, LLC’S COMPLAINT AND DEMAND
FOR JURY TRIAL**

Defendant Gander Mountain Company (hereinafter “Gander Mountain”),
hereby states as follows:

PARTIES

1. Gander Mountain is without sufficient information to form a belief as to the truth of the averments of paragraph 1 of Plaintiff’s Complaint and therefore denies them.

2. Gander Mountain states that paragraph 2 of Plaintiff’s Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 2 of Plaintiff’s Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 2 of Plaintiff’s Complaint and therefore denies them.

3. Gander Mountain states that paragraph 3 of Plaintiff’s Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 3 of

Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 3 of Plaintiff's Complaint and therefore denies them.

4. Gander Mountain states that paragraph 4 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 4 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 4 of Plaintiff's Complaint and therefore denies them.

5. Gander Mountain states that paragraph 5 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 5 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 5 of Plaintiff's Complaint and therefore denies them.

6. Gander Mountain states that paragraph 6 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 6 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 6 of Plaintiff's Complaint and therefore denies them.

7. Gander Mountain states that paragraph 7 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the

extent that a response is required of Gander Mountain to paragraph 7 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 7 of Plaintiff's Complaint and therefore denies them.

8. Gander Mountain states that paragraph 8 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 8 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 8 of Plaintiff's Complaint and therefore denies them.

9. Gander Mountain states that paragraph 9 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 9 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 9 of Plaintiff's Complaint and therefore denies them.

10. Gander Mountain states that paragraph 10 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 10 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 10 of Plaintiff's Complaint and therefore denies them.

11. Gander Mountain states that paragraph 11 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 11 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 11 of Plaintiff's Complaint and therefore denies them.

12. Gander Mountain states that paragraph 12 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 12 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 12 of Plaintiff's Complaint and therefore denies them.

13. Gander Mountain states that paragraph 13 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 13 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 13 of Plaintiff's Complaint and therefore denies them.

14. Gander Mountain states that paragraph 14 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 14 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 14 of Plaintiff's Complaint and therefore denies them.

15. Gander Mountain states that paragraph 15 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 15 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 15 of Plaintiff's Complaint and therefore denies them.

16. Gander Mountain admits that it is a Minnesota corporation with offices at 180 East 5th Street, Suite 1300, Saint Paul, MN, 55101. Gander Mountain denies the truth of the remaining averments of paragraph 16 of Plaintiff's Complaint.

17. Gander Mountain admits that Overton's, Inc. is a North Carolina corporation with offices at 180 East 5th Street, Suite 1300, Saint Paul, MN, 55101. Gander Mountain denies the truth of the remaining averments of paragraph 17 of Plaintiff's Complaint.

18. Gander Mountain states that paragraph 18 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 18 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 18 of Plaintiff's Complaint and therefore denies them.

19. Gander Mountain states that paragraph 19 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 19 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 19 of Plaintiff's Complaint and therefore denies them.

20. Gander Mountain states that paragraph 20 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 20 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 20 of Plaintiff's Complaint and therefore denies them.

21. Gander Mountain states that paragraph 21 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 21 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 21 of Plaintiff's Complaint and therefore denies them.

22. Gander Mountain states that paragraph 22 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 22 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 22 of Plaintiff's Complaint and therefore denies them.

23. Gander Mountain states that paragraph 23 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 23 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 23 of Plaintiff's Complaint and therefore denies them.

24. Gander Mountain states that paragraph 24 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 24 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 24 of Plaintiff's Complaint and therefore denies them.

25. Gander Mountain states that paragraph 25 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 25 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 25 of Plaintiff's Complaint and therefore denies them.

26. Gander Mountain states that paragraph 26 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 26 of

Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 26 of Plaintiff's Complaint and therefore denies them.

27. Gander Mountain states that paragraph 27 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 27 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 27 of Plaintiff's Complaint and therefore denies them.

28. Gander Mountain states that paragraph 28 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 28 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 28 of Plaintiff's Complaint and therefore denies them.

29. Gander Mountain believes that paragraph 29 of Plaintiff's Complaint states legal a conclusion to which no response is required. To the extent that a response is required, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments of paragraph 29 of Plaintiff's Complaint and therefore denies them.

30. Gander Mountain denies the truth of the averments of paragraph 30 of Plaintiff's Complaint.

31. Gander Mountain denies the truth of the averments of paragraph 31 of Plaintiff's Complaint.

32. Gander Mountain is without sufficient information to form a belief as to the truth of the averments of paragraph 32 of Plaintiff's Complaint and therefore denies them.

33. Gander Mountain believes that paragraph 33 of Plaintiff's Complaint states legal a conclusion to which no response is required. To the extent that a response is required, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments of paragraph 33 of Plaintiff's Complaint and therefore denies them.

34. Gander Mountain states that paragraph 34 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 34 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 34 of Plaintiff's Complaint and therefore denies them.

35. Gander Mountain states that paragraph 35 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 35 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 35 of Plaintiff's Complaint and therefore denies them.

36. Gander Mountain states that paragraph 36 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 36 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 36 of Plaintiff's Complaint and therefore denies them.

37. Gander Mountain states that paragraph 37 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 37 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 37 of Plaintiff's Complaint and therefore denies them.

38. Gander Mountain states that paragraph 38 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 38 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 38 of Plaintiff's Complaint and therefore denies them.

39. Gander Mountain states that paragraph 39 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 39 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 39 of Plaintiff's Complaint and therefore denies them.

40. Gander Mountain states that paragraph 40 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 40 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 40 of Plaintiff's Complaint and therefore denies them.

41. Gander Mountain states that paragraph 41 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 41 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 41 of Plaintiff's Complaint and therefore denies them.

42. Gander Mountain states that paragraph 42 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 42 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 42 of Plaintiff's Complaint and therefore denies them.

43. Gander Mountain states that paragraph 43 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 43 of

Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 43 of Plaintiff's Complaint and therefore denies them.

44. Gander Mountain states that paragraph 44 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 44 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 44 of Plaintiff's Complaint and therefore denies them.

45. Gander Mountain states that paragraph 45 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 45 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 45 of Plaintiff's Complaint and therefore denies them.

46. Gander Mountain states that paragraph 46 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 46 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 46 of Plaintiff's Complaint and therefore denies them.

47. Gander Mountain states that paragraph 47 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the

extent that a response is required of Gander Mountain to paragraph 47 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 47 of Plaintiff's Complaint and therefore denies them.

48. Gander Mountain denies the truth of the averments of paragraph 48 of Plaintiff's Complaint.

49. Gander Mountain denies the truth of the averments of paragraph 49 of Plaintiff's Complaint.

50. Gander Mountain states that paragraph 50 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 50 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 50 of Plaintiff's Complaint and therefore denies them.

51. Gander Mountain states that paragraph 51 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 51 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 51 of Plaintiff's Complaint and therefore denies them.

52. Gander Mountain states that paragraph 52 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 52 of

Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 52 of Plaintiff's Complaint and therefore denies them.

53. Gander Mountain states that paragraph 53 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 53 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 53 of Plaintiff's Complaint and therefore denies them.

54. Gander Mountain states that paragraph 54 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 54 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 54 of Plaintiff's Complaint and therefore denies them.

55. Gander Mountain states that paragraph 55 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 55 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 55 of Plaintiff's Complaint and therefore denies them.

56. Gander Mountain states that paragraph 56 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the

extent that a response is required of Gander Mountain to paragraph 56 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 56 of Plaintiff's Complaint and therefore denies them.

57. Gander Mountain states that paragraph 57 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 57 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 57 of Plaintiff's Complaint and therefore denies them.

58. Gander Mountain states that paragraph 58 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 58 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 58 of Plaintiff's Complaint and therefore denies them.

59. Gander Mountain states that paragraph 59 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 59 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 59 of Plaintiff's Complaint and therefore denies them.

60. Gander Mountain states that paragraph 60 of Plaintiff's Complaint is not directed to Gander Mountain and therefore no response is required. To the extent that a response is required of Gander Mountain to paragraph 60 of Plaintiff's Complaint, Gander Mountain states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 60 of Plaintiff's Complaint and therefore denies them.

61. Gander Mountain believes that paragraph 61 of Plaintiff's Complaint states an unsound conclusion to which no response is required. To the extent that a response is required, Gander Mountain denies the truth of the averments of paragraph 61 of Plaintiff's Complaint.

62. Gander Mountain denies the truth of the averments of paragraph 62 of Plaintiff's Complaint.

63. Gander Mountain denies the truth of the averments of paragraph 63 of Plaintiff's Complaint.

64. Gander Mountain denies the truth of the averments of paragraph 64 of Plaintiff's Complaint.

ADDITIONAL DEFENSES

1. This Court lacks personal jurisdiction over Gander Mountain.
2. Venue is improper in this Court.
3. Each count of Plaintiff's Complaint fails to state a claim upon which relief may be granted.

4. Gander Mountain does not make, use, sell, or offer for sale in the United States or import into the United States any products that infringe the patent in suit.

5. Upon information and belief, Plaintiff's claims are barred by the doctrine of laches.

6. Upon information and belief, Plaintiff has failed to join a party under Rule 19.

7. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §101.

8. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §102.

9. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §103.

10. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §112, first paragraph.

11. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §112, second paragraph.

12. Gander Mountain has not infringed Plaintiff's patent.

13. Gander Mountain has not willfully infringed Plaintiff's patent.

14. Gander Mountain has not induced any infringement of Plaintiff's patent.

15. Gander Mountain has not contributed to any infringement of Plaintiff's patent.

16. Plaintiff is not entitled to relief under 35 U.S.C. § 284.
17. Plaintiff is not entitled to relief under 35 U.S.C. § 285.
18. Plaintiff is not entitled to an award of restitution.

COUNTERCLAIMS

Gander Mountain Company (hereinafter “Gander Mountain”), files this counterclaim against SFA Systems, LLC (hereinafter “SFA”).

THE PARTIES

1. Gander Mountain is a Minnesota corporation with offices at 180 East 5th Street, Suite 1300, Saint Paul, MN, 55101.
2. In its Complaint, SFA alleges infringement by Gander Mountain of U.S. Patent 6,067,525 (“the ‘525 patent”).

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this counterclaim pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. §§ 1331, and under 35 U.S.C. § 1338(a). By virtue of the Complaint filed in this Action, there is an actual justiciable controversy between Gander Mountain and SFA Systems, LLC concerning the non-infringement and invalidity of the ‘525 patent.
4. SFA is subject to personal jurisdiction in this judicial district because they filed this action in this district and these counterclaims directly relate to the underlying claims asserted by SFA.

COUNT I

NONINFRINGEMENT AND INVALIDITY OF THE '525 PATENT

5. Gander Mountain realleges and incorporates herein by reference all of the allegations contained in Paragraphs 1-4 of these counterclaims.

6. Gander Mountain has not and does not infringe any claim of the '525 patent.

7. Gander Mountain has not induced any infringement of the '525 patent.

8. Gander Mountain has not contributed to any infringement of the '525 patent.

9. Upon information and belief, the claims of the '525 patent are invalid.

PRAYER FOR RELIEF

WHEREFORE, Gander Mountain Company requests that this Court:

1. Adjudge that SFA Systems, LLC take nothing by reason of its Complaint;

2. Enter judgment in favor of Gander Mountain Company and against SFA Systems, LLC on all claims for relief contained in SFA Systems, LLC's Complaint;

3. Enter judgment that Gander Mountain Company does not infringe SFA Systems, LLC's patent under 35 U.S.C. § 271;

4. Enter judgment that SFA Systems, LLC's patent is invalid;

5. Adjudge that Gander Mountain Company be awarded its attorneys' fees and costs of suit incurred in defense against SFA Systems, LLC's

Complaint; and,

6. Award Gander Mountain Company any other relief the Court deems just and proper.

JURY DEMAND

Gander Mountain Company demands a jury trial on all issues so triable.

Respectfully submitted,

By /s/Dean L. Franklin

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*Attorneys for Defendant Gander
Mountain, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 2nd day of November, 2009. All other counsel not deemed to have consented to service in such manner will be served via facsimile transmission and/or first class mail.

/s/Dean L. Franklin